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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/734,301	12/12/2000	Robert C. Oswald	2275-010	3881

7590            01/14/2004

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EXAMINER

SAETHER, FLEMMING

ART UNIT	PAPER NUMBER
3679	

DATE MAILED: 01/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/734,301	OSWALD, ROBERT C.
Examiner	Art Unit	
Flemming Saether	3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM

THE MAILING DATE OF THIS COMMUNICATION. 11/30/2003

Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.

- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12 November 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All
  - b) Some \*
  - c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

- |                                                                                               |                                                                             |
|-----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                              | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)          | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. | 6) <input type="checkbox"/> Other: _____.                                   |

***Claim Rejections - 35 USC § 103***

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dove (US 3,977,142) in view of Ditka (US 5,867,958), Rosenberg (US 1,485,202) and Hoepker (US 5,261,770). Dove discloses a drive pin in the environment as defined in the claims (ie. sheet material fastener) including spiral grooves (19) having a minor diameter smaller than a base diameter (column 4, first complete paragraph) but, does not disclose the angle of the spiral grooves as claimed. Ditka discloses a drive pin including the angle of the spiral grooves relative to the longitudinal axis between 0 and 45 degrees which includes the angles which are claimed, the pin of Ditka is intended to use in a different environment (ie. masonry). Rosenberg is a linking reference which teaches the use of the same spiral grooved fastener in both environments. In view of the teaching of Rosenberg, the person of ordinary skill in the art would have recognized to angle the spiral grooves of Dove as disclosed in Ditka in order to optimize both the insertion and retention of the pin. The specific sizes of the pin would have been recognized since it is well known to vary the sizes of pin fasteners depending upon the particular application. Neither Dove, Ditka nor Rosenberg discloses an ogival-shaped tip. Hoepker discloses a drive pin having an ogival-shaped tip. At the time the invention was made, it would have been obvious for one of ordinary skill in the art to replace the tip of modified Dove with an ogival-shaped tip as disclosed in Hoepker in order to facilitate automated hammering of the fastener. The automated hammering is a more efficient method and the ogival-shaped tip is optimal to facilitate such an operation as disclosed in Hoepker.

***Response to Arguments***

To clarify, the use of “ballistic” and “bullet-shaped” was not objected to as asserted but instead, the examiner merely suggested language believed to be more specific to the shape disclosed. Applicant is invited to use either “ballistic” or “bullet-shaped” but, as in the previous office actions such terminology must be considered broadly. Finally, so there is no confusion, “ogival-shaped” is not new matter.

As conceded above, neither Dove nor Ditka disclose an ogival-shaped tip and therefore, the arguments directed thereto are now moot. However, as alluded to the previous office action, the reference to Hoepker discloses the ogival-shaped tip.

The examiner disagrees with applicant’s remarks in that the structure of Hoepker is sufficiently different to render a union with Dove and Ditka unobvious. As discussed in the above rejection, providing the fastener of modified Dove with an ogival-shaped tip would have been obvious to improve the operation of the fastener.

***Conclusion***

Applicant’s amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 3679

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 703-308-0182. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne can be reached on 703-308-1159.



Flemming Saether  
Primary Examiner  
Art Unit 3679